

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Do you mean to say that the governor could not, or a redistricting commission similar to that established for the General Assembly, could not be provided for here?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: You could provide for a redistricting commission, but you could never provide in my opinion that the commission plan would become law.

Something further must happen, and that is to say the General Assembly must be the final actor in the process. That is to say, whatever plan is adopted must be a plan that is ultimately adopted by the General Assembly. You could use the commission idea to start it off, or to initiate it.

THE CHAIRMAN: Delegate Case.

DELEGATE CASE: Can you tell me what authority there is for that statement? In other words, why can it be one way for the state representative body and cannot be that way for the federal?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: Well, all the writing in the congressional quarterly publication that was put out with respect to congressional districting speaks in terms of having to be accomplished by the General Assembly.

In addition to that, there is provision in the Constitution of the U. S., section 4, of Article 1, which says times, places, and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof.

So it would seem that the General Assembly must actually do it.

Apportioning is done by the Congress, or the federal government, and districting is accomplished by the legislature of the state. I think that is the judicial method of approach.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: Mr. President, I would like to ask a question or two of the Chairman.

In this amendment, and without qualification it seems to read, each district shall consist of adjoining territory and be compact.

The Chair knows that under the court plan, in order to preserve the three con-

gressmen from Baltimore City and their seniority, they had to get away from the adjoining territory theory and had to join Talbot County and southern Anne Arundel, skip the Chesapeake Bay and go over into the Eastern Shore. If they did not do that, they would have had to take the Eastern Shore and ignore natural boundaries and probably come up into Harford County, or take a slice of Harford County, in order to get population.

Do you think it well that we freeze language in that makes it mandatory, that they shall consist of adjoining territory, when under certain circumstances we may have to jump across the Chesapeake Bay, jump across the Susquehanna River, or swim across the Potomac in order to get brethren?

THE CHAIRMAN: Delegate Gallagher.

DELEGATE GALLAGHER: It is obvious that Delegate Weidemeyer is not pleased by what the federal district court did.

The Federal district court was not required to follow any of these tests, because since 1929 there had been in effect from the federal point of view no tests, so you have your congressmen and how you went about dividing up the districts was solely a state matter.

As I said before, this would be an attempt to return to some of the earlier requirements of the Congress of the United States, and I cannot fault the gentleman that there can be congressional districts with which people are dissatisfied.

I would not seek to do the redistricting here. I would simply say that this provides a test which assures some fairness.

THE CHAIRMAN: Delegate Weidemeyer.

DELEGATE WEIDEMEYER: In view of the fact that Maryland has all these natural resources, the Chesapeake Bay and the beautiful river, and we cannot in all instances and under all circumstances have adjoining territories, the further question is, do you think that we ought to press it in the constitutional language where the legislature cannot act because of language in the Constitution that restricts them from doing the kind of job that they would like to do and be fair to everybody concerned?

DELEGATE GALLAGHER: When the legislature had a free hand it tried three times, 1961, 1963 and 1965, to come up with a congressional redistricting plan, none of which ever saw the light of day.